



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, TUESDAY, FEBRUARY 15, 2005

No. 16

House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 15, 2005.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 1:30 p.m.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

CLASS ACTION REFORM

Mr. DELAY. Mr. Speaker, this week the House will take the first step of the new Congress towards fulfilling our mandate to reform America's legal system, which for decades has been too often and too easily gamed by predatory self-serving personal injury lawyers.

Last week, the Senate passed the Class Action Fairness Act, legislation essentially identical to a bill passed by the House in recent years. This week,

we will take it up and pass it again, and send it, along with the final product, to the President for his signature.

This first step, Mr. Speaker, is a giant leap. For the first time in years, the power of trial lawyers to abuse our generous and open legal system will be checked by ensuring that class action lawsuits are both valid and designed to protect victims, not line lawyers' pockets.

It first requires that large interstate class actions be filed in Federal court to streamline the process and make sure that lawyers cannot shop around for the most historically generous State venues.

It puts an end to other tricks certain lawyers use to keep their cases out of Federal court. And it establishes a consumer class action bill of rights that ensures it is the plaintiffs and not just the lawyers who benefit from legitimate class action suits.

This last provision will prevent a repeat of the Shields et al v. Bridgestone/Firestone case in which the plaintiffs got nothing, but their lawyers got \$19 million, or of the Microsoft antitrust litigation in which consumers received 5 to \$10 in voucher coupons, while attorneys billed hundreds of millions of dollars in fees.

This is a pattern of abuse, Mr. Speaker, greed rewarded on a breathtaking scale by a legal system in desperate need of protection. Class action fairness is not just reform; it is self-defense. After all, our courts are not home to a legal system but a system of justice, justice too long denied American plaintiffs and defendants.

Consumers and businesses alike have been victimized by lawsuit abuse, court dockets are backed up, companies are paying lawyers instead of employees, and our economy is suffering for it all.

With the Class Action Fairness Act, Congress will begin the work of restoring common sense and common decency to our legal justice system, ac-

cording to the needs of American families and the principles of reform they endorsed in last November's historic election. The 109th Congress has a mandate for reform, Mr. Speaker, and this week we will send the President the first product of that mandate.

MONEY FOR VETERANS HEALTH CARE

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Washington (Mr. BAIRD) is recognized during morning hour debates for 5 minutes.

Mr. BAIRD. Mr. Speaker, yesterday President Bush submitted his \$82 billion budget for the Iraq supplemental proposal, yet he did not request in that proposal a single dollar to pay for veterans services.

Tens of thousands of our troops will be returning home this year, and yet the VA system is already greatly unfunded, with long waiting lists for services for soldiers and their families. President Bush's supplemental proposal and his budget have failed our Nation's veterans.

Now, it is the responsibility of this body, of this Congress, to make sure that our returning soldiers and their families get the health care services they deserve.

Today, I have been joined by over 50 colleagues in sending a letter to the President and to members of the Committee on Appropriations requesting that the \$82 billion supplemental bill include an additional \$1.3 billion to provide for our returning soldiers and their families.

This proposal has been endorsed by the Military Officers Association of America, the National Military Families Association, and the Paralyzed Veterans of America.

I urge my colleagues on both sides of the aisle to do the right thing. If we can find \$80 billion to send to Iraq,

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H589

then for goodness sake we can find \$1.3 billion to take care of our soldiers and their families.

If we do not do this, what kind of message are we sending to the brave men and women who have served this country? I hope Members on both sides of the aisle will join me in this effort and that the President himself will see fit to support it as well.

THE PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to tell my colleagues about a piece of legislation that I have put in; it is called the Protection of Lawful Commerce in Arms Act. My cosponsor is Congressman RICK BOUCHER.

Last year we introduced a very similar piece of legislation, and it passed, my colleagues, with overwhelming bipartisan support. Our bill has the support of the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Association of Wholesalers, among other prominent groups.

What this legislation does is stops baseless lawsuits against gun manufacturers or dealers, based upon the criminal or unlawful third-party misuse of firearms.

Now, some may ask the question, why do we need such legislation? The reason that we need it is because the firearms industry is under attack. Over the last few years, trial lawyers have filed suits against federally licensed firearm manufacturers across this country in the hopes of bankrupting this industry.

They have been filing frivolous lawsuits that are based on the dubious premise, Mr. Speaker, that gun manufacturers should be held liable for the actions of others who use their products in a criminal or unlawful manner.

In other words, if someone gets a gun and then commits a crime with it, these litigious gun-control advocates believe that gunmakers should be held liable for the damages or injuries that are caused.

Now, that is like holding a car company responsible if a driver gets drunk, gets reckless, and hits someone with a vehicle. A law abiding manufacturer has a constitutional right to engage in interstate commerce without the fear of these frivolous lawsuits. I do not care if it is a business that makes guns, cigarettes, cars, fast food or whatever it is, although firearms are the only product that I have listed here which specifically has constitutional protection under the second amendment.

Over 30 cities and counties, in addition to various individuals, have sued the gun industry since 1998. I am pleased to note that many of these cases have been completely, com-

pletely dismissed in various city, State, and Federal courts. In fact, just a few days ago San Francisco, based in California, the appellate court there unanimously upheld a superior court decision dismissing lawsuits filed by Los Angeles, San Francisco, and 12 other California municipalities against members of the firearms industry. I welcome this decision.

However, there are still several lawsuits pending which threaten to devastate the industry. In New York City, recently enacted legislation allows victims of crime to sue the dealers and gunmakers. We also must consider that just the mere threat of these suits, taking the first couple of legal steps to defend these suits can be enough on their own to force some of the smaller companies out of business.

As one prominent person said of this tactic, we are going to make the gun industry die a death by a thousand cuts. So our legislation will end these coercive and undemocratic lawsuits.

Now, I understand there are some of my colleagues that may be hesitant to support my bill since the media and gun control advocates have spent years and millions of dollars vilifying the firearms industry. No one wants to be seen granting the industry special treatment or helping them to get away with something, or so it is perceived.

I have two responses to this. First, the firearms industry has been around and has been respected for generations. They provide a valuable service and a highly desirable product to millions of sportsmen and supporters of those second amendment rights. They provide our law enforcement agencies and our officers with the tools necessary to fight crime in our neighborhoods, and they enable our Armed Forces to protect our freedoms around the world.

The industry employs thousands of hard-working Americans and these Americans support their families like everybody else. These employees and their businesses pay taxes. It is an indisputable fact that the firearms industry has contributed immensely to our society over the years in a very positive way. But this does not mean that if one of these manufacturers purposely or recklessly sold a bad product they should be given a free pass. No, we are not saying that.

Our legislation is very narrowly tailored to allow suits against any bad actor to proceed. It includes carefully crafted exceptions to allow legitimate victims their day in court for cases involving defective firearms, breaches of contract, criminal behavior by a gunmaker or seller, or the negligent entrustment of a firearm to an irresponsible person.

In conclusion, Mr. Speaker, I am honored once again to introduce this commonsense bill, and I urge all of my colleagues to join with me in cosponsoring this piece of legislation.

BUDGET PRIORITIES AND MORAL VALUES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, last week President Bush delivered to Congress his proposed Federal budget. In the coming months, Democrats and Republicans in Congress will debate budget proposals largely based on divergent cardinal moral values.

We will debate budget cuts that represent more than just program scale-backs. The President's proposed cuts to vital government programs are reflective of differences in core philosophies on the role of our government in serving our people.

Budgets are moral documents that reveal the fundamental priorities of a person, of a household, of a business, of a government. The President's "every man for himself budget" disregards millions of Americans and undercuts our Nation's values. There is no better example of where Democrat and Republican values diverge than in Medicaid.

The President claims he only wants to cut programs that are not getting results or that duplicate current efforts or that do not fulfill essential priorities.

Democrats could not agree more on the need for efficient government. That is how we balanced the budget in the 1990s. So we asked then, which of those three, Mr. President, is Medicaid?

There is no question it is getting results. It operates at a lower cost than private health insurance. The fact is, private health insurance has grown historically at 12.6 percent a year. Medicare has grown at 7.1 percent a year. Medicaid has grown at 4.5 percent a year.

The public sector does it more efficiently and delivers to more people fairly than does private insurance. And there is no duplication here. It is the only program of its kind. It fulfills an essential priority. Medicaid is the sole source of nursing home care for 5 million seniors living in poverty.

The President knows Medicaid is already running on fumes, but he made a choice. He chose to give more tax cuts to the most privileged 1 percent of people in this country instead of providing for subsistence care for senior citizens in need, different priorities reflecting a different set of moral values.

Medicaid provides health coverage to 52 million Americans, roughly in my State of Ohio 1.7 million people. It is the only source of coverage for one out of four children in our Nation, and it provides 70 percent of the nursing home funding in most States.

The Bush proposal cuts \$60 billion out of the Medicaid program over the next 10 years, again so that the President could deliver to his biggest contributors the tax cut for the wealthiest 1 or 2 or 5 percent. These cuts, in effect, will mean kicking some seniors